

## 1.9 Remote Proceedings

- a. Effective January 1, 2022, pursuant to the newly enacted Code of Civil Procedure § 367.75, remote proceedings requirements differ between criminal and civil proceedings. Civil cases, as defined in California Rules of Court rule 1.6, include all cases except criminal cases and petitions for habeas corpus. For remote proceedings requirements in criminal cases, see local rule 1.10. For remote proceedings requirements in civil cases, see local rule 1.11. For remote proceeding requirements in juvenile dependency cases, see local rule 1.12.
- b. Civil and juvenile dependency hearings set on calendar prior to January 1, 2022 with a hearing date on or before February 28, 2022 are not subject to remote proceeding requirements in local rules 1.11 or 1.12. All civil and juvenile dependency hearings set on calendar on or after January 1, 2022 must comply with provisions of this rule and local rules 1.11 and 1.12.
- c. “Remote appearances” means the appearance at a court hearing using remote technology by a party, defendant, attorney, witness, victim, or others (social workers, tribal representatives, CASA, other experts.). Information on remote appearances can be found on the Remote Appearance page of the court’s public website.
- d. “Remote proceeding” means a proceeding conducted in whole or in part using remote technology.
- e. “Remote technology” means technology that provides for the transmission of video and audio signals or audio signals alone, including, but not limited to, a computer, tablet, telephone, cellphone, or other electronic communication device.
- f. **Telephonic Appearance Requirements.** Telephonic appearances require sufficient connectivity and an indoor location with limited background noise and distraction. It is the sole responsibility of the party appearing by telephone to ensure the above criteria are met. The court may continue the hearing and require an in-person appearance if clear communication is not possible by phone or if there is a distraction or disturbance that interferes with the hearing. See the Remote Appearance page on the court’s website for technical requirements and other instructions.
- g. **Video Appearance Requirements.** Video appearances require sufficient internet speed and connectivity to stream video, a device capable of capturing and displaying a clear audio and visual stream, and an indoor location with limited background noise and distraction. It is the sole responsibility of the party appearing by video to ensure the above criteria are met. The court may continue the hearing and require an in-person appearance if clear communication is not possible by video or if there is a distraction or disturbance that interferes with the hearing. See the Remote Appearance page on the court’s website for technical requirements and other instructions.

- h. **Court’s Discretion to Require In-Person Appearances.** Nothing limits the court’s ability to order personal appearance instead of a remote appearance. The court retains full discretion to conclude a remote appearance on its own motion and reschedule the hearing for another date and time due to delay or other concern due to disruption, noise, misconduct, a communication problem, a technical problem, other issue, or in the interest of justice.

If the court determines, on a hearing-by-hearing basis, that an in-person appearance would materially assist in the determination of the proceeding or in the effective management or resolution of the case, the court may order an in-person appearance.

- i. **Appearance in Person after Requesting a Remote Appearance.** In civil and juvenile dependency proceedings, a party that has given notice that it intends to appear remotely may instead choose to appear in person. If the proceeding is an evidentiary hearing or trial, the party must provide reasonable notice of the in-person appearance to the court and the other parties who have appeared in the case.

- j. **General Rules and Requirements.** Parties and non-parties appearing remotely must:

1. Ensure that they have sufficient battery power for the entire hearing. Access to charging equipment is recommended. Parties must also ensure that they have access to a sufficiently strong internet connection for the duration of the hearing. If appearing by telephone, a land line is preferred, but if using a cellular phone, the cellular connection must be strong enough to enable the court and other parties to hear the entire duration of the call.
2. Eliminate ambient or distracting noises and ensure consistent lighting during the hearing.
3. Connect to the court session at least five (5) minutes before the scheduled court appearance.
4. Mute their device and not speak until it is clear that it is their turn to speak, or their case is called.
5. Speak directly into the microphone on the device used to connect to the court session. Participants must identify themselves each time they speak, speak slowly, and avoid interrupting others.
6. Participate with the same degree of courtesy, decorum, use of appropriate language, and courtroom etiquette as required for an in-person appearance. If appearing by video, participants must dress appropriately in the same manner as they would for an in-person court appearance.

7. Not record or broadcast the remote appearance in compliance with California Rules of Court rule 1.150. Existing rules and procedures regarding the making of the record via court reporter or electronic device, or for obtaining a transcript after the hearing apply to video appearances. A violation of this local rule may result in the imposition of sanctions set forth in California Rules of Court rule 1.150(f).
8. Offer any exhibits that the parties wish to present via e-filing five (5) business days before the hearing. E-filed exhibits must be served on all parties. Self-represented litigants who are not e-filing their documents must serve their exhibits on the opposing party and file exhibits with the clerk's office two (2) business days before the hearing.

E-filed exhibits must be submitted in standard format required in 1.7(a)(4) with the [Exhibit Cover Sheet \(MEX-170\)](#). Transcripts for audio exhibits must be included with the initial filing of the audio exhibit.

Exhibits filed in other electronic format (flash drive, CD, etc.) must be in standard format required in 1.7(a)(4) and filed with the [Electronic Media Exhibit Cover Sheet \(MEX-175\)](#). They must be clearly labeled with the following: the case name, the case number, and the hearing date, time, and department. Transcripts for audio exhibits must be included with the initial filing of the audio exhibit.

*(Effective 7/1/21; amended 1/1/22; amended pursuant to CO-21-05 1/5/22)*

### **1.10 Remote Proceedings in Criminal Matters**

- a. **Remote Appearances where Prior Judicial Approval is Required.** Criminal out-of-custody defendants may appear remotely only with prior written authorization from the court. Defendants must file a [Request for Remote Appearance in a Criminal Proceeding \(MCR-115\)](#) with the clerk no later than noon two (2) business days prior to the hearing to request a remote appearance. Such requests must be approved by the judge hearing the matter. Defendants must contact the court by 1:00 pm the day before the hearing to find out whether the request is granted or denied. If the request has been denied or if the court clerk has not received the judge's ruling, the defendant must appear in person.
- b. **Remote Appearances where Prior Judicial Approval is Not Required.** Defense attorneys may appear remotely for pretrial and post-judgment proceedings with their client or on behalf of their client pursuant to Penal Code § 977. Attorneys are required to establish a mechanism to confidentially communicate with their client when their client is appearing remotely.

In-custody defendants will appear remotely from the institution where they are incarcerated unless they have been ordered to appear in person by the court.

The District Attorney's Office, Probation Department, expert witnesses, and law enforcement officers may appear remotely for pretrial and post-judgment proceedings.

- c. **Long Cause Evidentiary Hearings, Preliminary Hearings, Court Trials, and Jury Trials.** Generally, criminal defendants must appear in person for evidentiary hearings and trials. If, at the court's discretion, evidentiary hearings or trials are to be conducted with remote appearance by the defendant, the court must obtain the consent of the defendant as to the waiver of the defendant's appearance, as defined in Judicial Council's Emergency Rule 5(c).

*(Effective pursuant to CO-21-05 1/5/22)*

### **1.11 Remote Proceedings in Civil Matters**

- a. **Applicability of Rule 1.11.** See Rule 1.9 for general information and requirements for remote proceedings.

Civil hearings set on calendar prior to January 1, 2022, with a hearing date on or before February 28, 2022, are not subject to remote proceeding requirements in this Rule. All civil hearings set on calendar on or after January 1, 2022 must comply with provisions of Rule 1.11.

- b. **Remote Proceedings other than Evidentiary Hearings or Trials.**

- 1. Required Notice

- a. Time of Notice for a Hearing with at Least Three Days' Notice.

A party choosing to appear remotely in a proceeding set to occur within three business days must provide notice of the party's intent to appear remotely within two business days before the proceeding.

The party choosing remote appearance must file with the court a Judicial Council Form [Notice of Remote Appearance \(RA-010\)](#) and serve notice on all other parties or persons entitled to receive notice. Service must be by any means authorized by law to ensure delivery at least two business days prior to the proceeding, including email service, if parties or their counsel have consented to such service.

If after receiving notice from a party choosing remote appearance, a person who has not given notice also decides to appear remotely may do so by notifying the court and all others who have appeared in the action by no later than noon one business day before the proceeding.

- b. Time of Notice for a Hearing with Less Than Three Days' Notice.

A party choosing to appear remotely in a proceeding occurring in less than three business days must provide notice as follows:

The party choosing remote appearance must notify the court and all persons entitled to receive notice by serving and filing a Judicial Council Form [Notice of Remote Appearance \(RA-010\)](#) along with the application or pleadings for the proceeding.

Any party other than the applicant or moving party that chooses to appear remotely must provide notice of their intent to the court and all other parties that have appeared in the action no later than noon on the business day before the proceeding. If the notice is oral, it must be given in person or by telephone. If notice is in writing, it must be filed with the court on [Notice of Remote Appearance \(RA-010\)](#) and served on all other parties or persons entitled to receive notice. Service must be by any means authorized by law to ensure delivery no later than noon on the business day prior to the proceeding. Service by email is authorized if parties or their counsel have consented to such service.

The parties filing the notice must also provide a courtesy copy of this form to the department hearing the case, pursuant to local rule 1.7(e).

**c. Remote proceedings for Evidentiary Hearings or Trials.**

**1. Court's Notice of Remote Proceeding**

Lanterman-Petris-Short conservatorship hearings and trials are typically calendared as remote proceedings:

A party may file Judicial Council Form [Opposition to Remote Proceedings at Evidentiary Hearing or Trial \(RA-015\)](#) to request that the court disallow remote appearance for a such a hearing or trial.

**2. Party's Notice of Remote Proceeding.**

This rule applies except in juvenile dependency proceedings; hearings and trials in which the court has determined that remote appearances are suitable in (c)(1) above; or if the court has granted special permission to a party upon a finding of good cause, unforeseen circumstances or that the remote appearance would promote access to justice.

**a. Time of Notice for Hearing or Trial with At Least 15 Days' Notice.**

A party choosing to appear remotely at an evidentiary hearing or trial set to occur at least fifteen business days later must provide notice of the party's intent to appear remotely.

The party choosing remote appearance must file with the court a [Notice of Remote Appearance \(RA-010\)](#) and serve notice on all other parties or persons entitled to receive notice at least ten business days before the hearing or trial. Service must be by any means authorized by law, including email service, if parties or their counsel have consented to such service.

If after receiving notice from a party choosing remote appearance, a person who has not given notice also decides to appear remotely may do so by filing with the court a [Notice of Remote Appearance \(RA-010\)](#) and serving all others who have appeared in the action by no later than five business day before the evidentiary hearing or trial.

b. Time of Notice for Hearing or Trial Held in Less Than 15 Days.

A party choosing to appear remotely at an evidentiary hearing or trial set to occur in less than fifteen business days, including hearings on restraining orders and protective orders, must provide notice of the party's intent to appear remotely.

- i. If the hearing or trial is set to occur with at least three business days' notice, the party choosing remote appearance must file with the court a [Notice of Remote Appearance \(RA-010\)](#) and serve notice on all other parties or persons entitled to receive notice. Service must be by any means authorized by law to ensure delivery at least two business days prior to the proceeding, including email service, if parties or their counsel have consented to such service.

If after receiving notice from a party choosing remote appearance, a person who has not given notice also decides to appear remotely may do so by notifying the court and all others who have appeared in the action by no later than noon one business day before the proceeding.

- ii. If the hearing or trial is set to occur in less than three business days, the party choosing remote appearance must notify the court and all persons entitled to receive notice by serving and filing a [Notice of Remote Appearance \(RA-010\)](#) along with the application or pleadings for the proceeding; or,

Any party other than the applicant or moving party that chooses to appear remotely must provide notice of their intent to the court and all other parties that have appeared in the action no later than noon on the business day before the proceeding. If the notice is oral, it must be given in person or by telephone. If notice is in writing, it must be filed with the court on [Notice of Remote Appearance \(RA-010\)](#) and served on all other parties or persons entitled to receive notice. Service must be by any means authorized by law to ensure delivery no later than noon on the business day prior to the proceeding. Service by email is authorized if parties or their counsel have consented to such service.

The parties filing the notice must provide a courtesy copy of this form to the department hearing the case, pursuant to local rule 1.7(e).

3. Opposition to Remote Proceedings.

In response to a notice of a remote proceeding for an evidentiary hearing or trial, a party may make a showing to the court as to why a remote appearance should not be allowed by filing on the court Judicial Council Form [Opposition to Remote Proceedings at Evidentiary Hearing or Trial \(RA-015\)](#) and serving such Opposition on all parties to the action at least five business days before the hearing or trial for which the party receives at least fifteen days' notice; or by noon on the business day before the hearing or trial for which the party receives less than fifteen days' notice.

The parties filing the opposition must provide a courtesy copy of this form to the department hearing the case, pursuant to local rule 1.7(e).

4. Court Determination on Opposition.

In determining whether to conduct an evidentiary hearing or trial in whole or in part through the use of remote technology over opposition, the court will consider the following factors:

- a. that an in-person appearance would materially assist in the determination of the hearing or trial, or in the effective resolution of case.
- b. the quality of the audibility of the hearing may inhibit a court reporter's ability to accurately prepare a transcript of the hearing;
- c. the quality of the technology or audibility of the hearing prevents an attorney from providing effective representation to the client;

- d. the quality of the technology and audibility of the hearing inhibits a court interpreter’s ability to provide language access to a limited English party;
- e. any limited access to technology or transportation asserted by a party.

*(Effective pursuant to CO-21-05 1/5/22)*

## **1.12 Remote Proceedings in Juvenile Dependency Matters**

- a. **Applicability of Rule 1.12.** See local rule 1.9 for general information and requirements for remote proceedings.

Juvenile dependency hearings set on calendar prior to January 1, 2022, with a hearing date on or before February 28, 2022, are not subject to remote proceeding requirements in this Rule. All juvenile dependency hearings set on calendar on or after January 1, 2022 must comply with provisions of local rule 1.12.

- b. **Contested Hearings**

Any party who intends to call a witness at a contested hearing (excluding detention hearings) who is not a person identified in California Rule of Court 5.530 and have that person testify via remote technology, must give notice to the Court and the other parties of such intention on Judicial Council Form [Request to Appear Remotely – Juvenile Dependency \(RA-025\)](#) at least 10 calendar days in advance of the hearing.

Any party may oppose the request to appear remotely by filing with the court Judicial Council Form [Request to Compel Physical Presence – Juvenile Dependency \(RA-030\)](#) no later than the close of business 3 court days before the proceeding.

A courtesy copy of the opposition must be provided to the department hearing the case, pursuant to local rule 1.7(e).

- c. **Determination of requests and oppositions.**

The Court may or may not grant the request for a witness to testify via remote technology regardless of whether all parties have given consent to the witness’s remote appearance.

The court may deny a request to appear remotely if the court determines that an in-person appearance is necessary because:

- 1. the court cannot ensure that the remote appearance will have the privacy and security necessary to preserve the confidentiality of the proceeding;

2. giving testimony via remote technology may cause undue prejudice to one or more parties or prevent the court from making credibility determinations.

3. For any other reason identified by the court.

**d. Requirement for Attorneys to Appear in Court**

Any attorney asking for a contested hearing may be required to appear in court to conduct the hearing. Attorneys are encouraged to appear in court for such proceedings to ensure an accurate record of the proceedings.

*(Effective pursuant to CO-21-05 1/5/22; amended 3/4/22)*